

House File 706 - Introduced

HOUSE FILE _____
BY WHITAKER, S. OLSON, LUKAN,
and ROBERTS

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act establishing the Iowa retail petroleum unfair sales Act,
2 and providing a penalty.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
4 TLSB 2654YH 82
5 rn/je/5

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1 1 Section 1. NEW SECTION. 551B.1 SHORT TITLE.
1 2 This chapter shall be known and may be cited as the "Iowa
1 3 Retail Petroleum Unfair Sales Act".
1 4 Sec. 2. NEW SECTION. 551B.2 LEGISLATIVE FINDINGS AND
1 5 INTENT.
1 6 The general assembly finds that fair and healthy
1 7 competition in the marketing of motor fuel provides maximum
1 8 benefits to consumers in this state and that certain marketing
1 9 practices which impair such competition are contrary to the
1 10 public interest. Predatory practices and, in certain
1 11 instances, discriminatory practices constitute unfair trade
1 12 practices and anticompetitive restraints which reduce motor
1 13 fuel industry competition and, if left to continue unabated,
1 14 will ultimately threaten or harm the consuming public.
1 15 Sec. 3. NEW SECTION. 551B.3 DEFINITIONS.
1 16 As used in this chapter, unless the context otherwise
1 17 requires:
1 18 1. "Department" means the department of agriculture and
1 19 land stewardship.
1 20 2. "Motor fuel" means any liquid, except diesel fuel, used
1 21 for the propulsion of any motor vehicle, including any
1 22 petroleum-based product, ethanol, or other biofuel.
1 23 3. "Retail" means any transfer of motor fuel for valuable
1 24 consideration in the ordinary course of trade for consumption
1 25 or use other than resale or further processing or
1 26 manufacturing.
1 27 4. "Retail cost" means, for any particular day, the
1 28 closing rack average price per gallon from all Iowa terminal
1 29 racks for the applicable motor fuel product for the most
1 30 recent prior day close, plus any excise, sales, or use taxes
1 31 imposed on the motor fuel multiplied by one and seven
1 32 one-hundredths to cover freight, credit card fees, and other
1 33 costs of doing business.
1 34 5. "Retail price" means the price at retail which shall be
1 35 calculated including any coupons, concessions, or the value of
2 1 any free gifts, given to a purchaser at retail as an
2 2 inducement to make a motor fuel or other purchase.
2 3 Sec. 4. NEW SECTION. 551B.4 SALE AT LESS THAN RETAIL
2 4 COST == PENALTY.
2 5 A person shall not sell at retail any motor fuel at a
2 6 retail price that is below retail cost with the intent or
2 7 effect of injuring competition or a competitor; provided,
2 8 however, that sales made to meet the lawful retail price of a
2 9 competitor located in this state shall not be a violation of
2 10 this section.
2 11 Sec. 5. NEW SECTION. 551B.5 ENFORCEMENT == PENALTY.
2 12 1. The department shall investigate any alleged violations
2 13 of this chapter and order any person found to be in violation
2 14 to cease said violation at the location where the violation
2 15 occurred.
2 16 2. If a person fails to comply with an order issued by the
2 17 department under subsection 1, the department may bring a
2 18 civil enforcement action against the person in violation as a
2 19 contested case proceeding under chapter 17A or as a civil

2 20 judicial proceeding by the attorney general upon referral by
2 21 the department. The department may impose, assess, and
2 22 collect a civil penalty of at least one hundred dollars but
2 23 not more than one thousand dollars for each violation. Each
2 24 day that a continuing violation occurs shall be considered a
2 25 separate offense.
2 26 3. The department shall adopt rules to implement this
2 27 section, and in so doing shall develop a complaint form for
2 28 use by complainants in reporting alleged violations of this
2 29 chapter.

2 30 EXPLANATION

2 31 This bill relates to unfair competition practices in the
2 32 sale of specified fuels.

2 33 The bill provides legislative findings that fair and
2 34 healthy competition in the marketing of motor fuel provides
2 35 maximum benefits to consumers but that certain predatory
3 1 marketing practices which impair such competition are contrary
3 2 to the public interest. The bill provides that to curtail
3 3 such practices, a person shall not sell at retail any motor
3 4 fuel at a retail price that is below retail cost with the
3 5 intent or effect of injuring competition or a competitor. The
3 6 bill supplies definitions for "motor fuel", "retail price",
3 7 and "retail cost". The bill adds, however, that sales made to
3 8 meet the lawful retail price of a competitor shall not
3 9 constitute a violation.

3 10 The bill requires the department of agriculture and land
3 11 stewardship, division of weights and measures, to investigate
3 12 complaints and order violators to cease said violation at the
3 13 location where the violation occurred. The bill provides that
3 14 failure to comply with a violation order may result in a civil
3 15 enforcement action against the person in violation, and that
3 16 the department may impose, assess, and collect a civil penalty
3 17 of at least \$100 but not more than \$1,000 for each violation,
3 18 with each day that a continuing violation occurs considered a
3 19 separate offense.

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